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GASKINS & OTHERS v. HUNTON—Decided at Richmond January 30, 1896.—*Buchanan, J.* Absent, *Keith, P.*:

1. WILLS—*Construction of—Estate given by one part, how affected by other parts.* If an estate is conveyed, or an interest given, or a benefit bestowed in one part of the instrument by clear, unambiguous, and explicit words; such estate, interest, or benefit, is not diminished or destroyed by words in another part of the instrument unless the terms which diminish or destroy the estate before given be as clear and decisive as the terms by which it was created.

2. WILLS—*Construction—Case at bar.* A testator devised and bequeathed certain real and personal property to his four sons and his daughter by language which was construed to convey a fee in the lands and pass an absolute estate in the personalty. The will then provides as follows: "After the above mentioned divisions and dispositions are made, I desire at a suitable time, say at the end of the year, or in one year after my decease, that the residue of my property, not divided as above, be equally divided among my four living sons and daughter; if either should die before the division or without an heir, the estate of such an one to be equally divided amongst all my living children above mentioned." Two of the sons and the daughter died without issue. One of the other sons died leaving children. The remaining son still survives.

Held: The limitations in the provision quoted apply only to the residue of the estate disposed of by that part of the will, and not to the general or principal distribution made in a former part.

HALEY V. MONTEIRO.—Decided at Richmond, February 13, 1896.—*Riely, J.*:

1. REAL ESTATE AGENTS—*Definition—Powers—Special agents.* A real estate broker or agent is one who negotiates the sale of real estate. His business generally is to find a purchaser who is willing to buy on the terms fixed by the owner. He has no implied authority to bind his principal by signing a contract of sale. Nor has he such authority to fix terms of sale, time of possession, nor the covenants to be contained in the deed. Nor can he materially change terms of sale fixed by the principal, without his consent. He is a special agent and must pursue his instructions and act within the scope of his limited power; and those who deal with him, if he exceeds his authority, do so at their peril.

2. AGENCY—*Agent to sell land not to be purchaser—Disclosures—Ratification.* An agent to sell cannot become a purchaser except after the fullest disclosure to his principal of all facts which may affect his interest. The relation between the parties is one of trust and confidence, and the utmost good faith is exacted of the agent. He cannot sign a contract for the sale of the principal's land, when he is himself interested as purchaser. If such contract be made by the agent, the principal will not be held to a ratification thereof, except after full knowledge of all the material facts. If these be either suppressed or unknown, the ratification will be treated as invalid, because founded in fraud or mistake.

3. SPECIFIC PERFORMANCE—*Nature of contract to be enforced—Contract of agent—Ratification.* Specific performance is not a matter of absolute right, but rests in a sound judicial discretion. It will not be decreed unless the contract be equitable